

Chapter 69.04 RCW
Intrastate commerce in food, drugs, and cosmetics
(formerly food, drug, and cosmetic act)

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Patent medicine peddlers: Chapter [18.64](#) RCW.

69.04.001
Statement of purpose.

This chapter is intended to enact state legislation (1) which safeguards the public health and promotes the public welfare by protecting the consuming public from (a) potential injury by product use; (b) products that are adulterated; or (c) products that have been produced under unsanitary conditions, and the purchasing public from injury by merchandising deceit flowing from intrastate commerce in food, drugs, devices, and cosmetics; and (2) which is uniform, as provided in this chapter, with the federal food, drug, and cosmetic act; and with the federal trade commission act, to the extent it expressly outlaws the false advertisement of food, drugs, devices, and cosmetics; and (3) which thus promotes uniformity of such law and its administration and enforcement, in and throughout the United States.

[1991 c 162 § 1; 1945 c 257 § 2; Rem. Supp. 1945 § 6163-51.]

Notes:

Conformity with federal regulations: RCW [69.04.190](#) and [69.04.200](#).

69.04.002

Introductory.

For the purposes of this chapter, terms shall apply as herein defined unless the context clearly indicates otherwise.

[1945 c 257 § 3; Rem. Supp. 1945 § 6163-52.]

69.04.003

"Federal act" defined.

The term "federal act" means the federal food, drug, and cosmetic act, approved on June 25, 1938. (Title 21 U.S.C. 301 et seq.; 52 Stat. 1040 et seq.)

[1945 c 257 § 4; Rem. Supp. 1945 § 6163-53.]

69.04.004

"Intrastate commerce."

The term "intrastate commerce" means any and all commerce within the state of Washington and subject to the jurisdiction thereof; and includes the operation of any business or service establishment.

[1945 c 257 § 5; Rem. Supp. 1945 § 6163-54.]

69.04.005

"Sale."

The term "sale" means any and every sale and includes (1) manufacture, processing, packing, canning, bottling, or any other production, preparation, or putting up; (2) exposure, offer, or any other proffer; (3) holding, storing, or any other possessing; (4) dispensing, giving, delivering, serving, or any other supplying; and (5) applying, administering, or any other using.

[1945 c 257 § 6; Rem. Supp. 1945 § 6163-55.]

69.04.006

"Director."

The term "director" means the director of the department of agriculture of the state of Washington and his duly authorized representatives.

[1945 c 257 § 7; Rem. Supp. 1945 § 6163-56.]

Notes:

Director of agriculture, general duties: Chapter [43.23](#) RCW.

69.04.007

"Person."

The term "person" includes individual, partnership, corporation, and association.

[1945 c 257 § 8; Rem. Supp. 1945 § 6163-57.]

69.04.008

"Food."

The term "food" means (1) articles used for food or drink for people or other animals, (2) bottled water, (3) chewing gum, and (4) articles used for components of any such article.

[1992 c 34 § 2; 1945 c 257 § 9; Rem. Supp. 1945 § 6163-58.]

Notes:

Severability -- 1992 c 34: See note following RCW [69.07.170](#).

69.04.009
"Drugs."

The term "drug" means (1) articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of human beings or other animals; and (4) articles intended for use as a component of any article specified in clause (1), (2), or (3); but does not include devices or their components, parts, or accessories.

[2009 c 549 § 1018; 1945 c 257 § 10; Rem. Supp. 1945 § 6163-59. Prior: 1907 c 211 § 2.]

69.04.010
"Device."

The term "device" (except when used in RCW [69.04.016](#) and in RCW [69.04.040](#)(10), [69.04.270](#), [69.04.690](#), and in RCW [69.04.470](#) as used in the sentence "(as compared with other words, statements, designs, or devices, in the labeling)") means instruments, apparatus, and contrivances, including their components, parts and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals; or (2) to affect the structure or any function of the body of human beings or other animals.

[2009 c 549 § 1019; 1945 c 257 § 11; Rem. Supp. 1945 § 6163-60.]

69.04.011
"Cosmetic."

The term "cosmetic" means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part

thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such article; except that such term shall not include soap.

[1945 c 257 § 12; Rem. Supp. 1945 § 6163-61.]

69.04.012
"Official compendium."

The term "official compendium" mean the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them.

[1945 c 257 § 13; Rem. Supp. 1945 § 6163-62.]

69.04.013
"Label."

The term "label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.

[1945 c 257 § 14; Rem. Supp. 1945 § 6163-63.]

69.04.014
"Immediate container."

The term "immediate container" does not include package liners.

[1945 c 257 § 15; Rem. Supp. 1945 § 6163-64.]

69.04.015
"Labeling."

The term "labeling" means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article.

[1945 c 257 § 16; Rem. Supp. 1945 § 6163-65.]

Notes:

Crimes relating to labeling: Chapter [9.16](#) RCW, RCW [69.40.055](#).

69.04.016

"Misleading labeling or advertisement," how determined.

If any article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual.

[1945 c 257 § 17; Rem. Supp. 1945 § 6163-66.]

Notes:

Crimes relating to advertising: Chapter [9.04](#) RCW.

69.04.017

"Antiseptic" as germicide.

The representation of a drug, in its labeling or advertisement, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or such other use as involves prolonged contact with the body.

[1945 c 257 § 18; Rem. Supp. 1945 § 6163-67.]

69.04.018

"New drug" defined.

The term "new drug" means (1) any drug the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or (2) any drug the composition of which is such that such drug, as a result of investigations to determine its safety for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions: PROVIDED, That no drug in use on the *effective date of this chapter shall be regarded as a new drug.

[1945 c 257 § 19; Rem. Supp. 1945 § 6163-68.]

Notes:

***Effective date -- 1945 c 257: See**
RCW [69.04.860](#).

69.04.019

"Advertisement."

The term "advertisement" means all representations, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics.

[1945 c 257 § 20; Rem. Supp. 1945 § 6163-69.]

69.04.020

"Contaminated with filth."

The term "contaminated with filth" applies to any food, drug, device, or cosmetic not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.

[1945 c 257 § 21; Rem. Supp. 1945 § 6163-70.]

69.04.021

"Package."

The word "package" shall include, and be construed to include, wrapped meats enclosed in papers or other materials as prepared by the manufacturers thereof for sale.

[1963 c 198 § 8.]

69.04.022

"Pesticide chemical."

The term "pesticide chemical" means any substance defined as an economic poison and/or agricultural pesticide in Title [15](#) RCW as now enacted or hereafter amended.

[1963 c 198 § 9.]

69.04.023

"Raw agricultural commodity."

The term "raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored or otherwise treated in their unpeeled natural form prior to marketing.

[1963 c 198 § 10.]

69.04.024

"Food additive," "safe."

(1) The term "food additive" means any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use), if such substance generally is recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in food prior to January 1, 1958; through either scientific procedures or experience based on common use in food) to be unsafe under the conditions of its intended use; except that such term does not include; (a) a pesticide chemical in or on a raw agricultural commodity; or (b) a pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity; or (c) a color additive.

(2) The term "safe" as used in the food additive definition has reference to the health of human beings or animals.

[2009 c 549 § 1020; 1963 c 198 § 11.]

69.04.025

"Color additive," "color."

(1) The term "color additive" means a material which (a) is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source, and (b) when added or applied to a food is capable (alone or through reaction with other substance) of imparting color thereto; except that such term does not include any material which the director, by regulation, determines is used (or intended to be used) solely for a purpose or purposes other than coloring.

(2) The term "color" includes black, white, and intermediate grays.

(3) Nothing in subsection (1) hereof shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological processes of produce of the soil and thereby affecting its color, whether before or after harvest.

[1963 c 198 § 12.]

69.04.040

Prohibited acts.

The following acts and the causing thereof are hereby prohibited:

(1) The sale in intrastate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded.

(2) The adulteration or misbranding of any food, drug, device, or cosmetic in intrastate commerce.

(3) The receipt in intrastate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the sale thereof in such commerce for pay or otherwise.

(4) The introduction or delivery for introduction into intrastate commerce of (a) any food in violation of RCW [69.04.350](#); or (b) any new drug in violation of RCW [69.04.570](#).

(5) The dissemination within this state, in any manner or by any means or through any medium, of any false advertisement.

(6) The refusal to permit (a) entry and the taking of a sample or specimen or the making of any investigation or examination as authorized by RCW [69.04.780](#); or (b) access to or copying of any record as authorized by RCW [69.04.810](#).

(7) The refusal to permit entry or inspection as authorized by RCW [69.04.820](#).

(8) The removal, mutilation, or violation of an embargo notice as authorized by RCW [69.04.110](#).

(9) The giving of a guaranty or undertaking in intrastate commerce, referred to in RCW [69.04.080](#), that is false.

(10) The forging, counterfeiting, simulating, or falsely representing, or without proper authority, using any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under RCW [69.04.350](#).

(11) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of a food, drug, device, or cosmetic, or the doing of any other act with respect to a food, drug, device, or cosmetic, or the labeling or advertisement thereof, which results in a violation of this chapter.

(12) The using in intrastate commerce, in the labeling or advertisement of any drug, of any representation or suggestion that an application with respect to such drug is effective under section 505 of the federal act or under RCW [69.04.570](#), or that such drug complies with the provisions of either such section.

[1945 c 257 § 22; Rem. Supp. 1945 § 6163-71. Prior: 1917 c 168 § 1; 1907 c 211 § 1; 1901 c 94 § 1.]

69.04.050

Remedy by injunction.

(1) In addition to the remedies hereinafter provided the director is hereby authorized to apply to the superior court of Thurston county for, and such court shall have jurisdiction upon prompt hearing and for cause shown to grant, a temporary or permanent injunction restraining any person from violating any provision of RCW [69.04.040](#); without proof that an adequate remedy at law does not exist.

(2) Whenever it appears to the satisfaction of the court in the case of a newspaper, magazine, periodical, or other publication, published at regular intervals (a) that restraining the dissemination of a false advertisement in any particular issue of such publication would delay the delivery of such issue after the regular time therefor, and

(b) that such delay would be due to the method by which the manufacture and distribution of such publication is customarily conducted by the publisher in accordance with sound business practice, and not to any method or device adopted for the evasion of this section or to prevent or delay the issuance of an injunction or restraining order with respect to such false advertisement or any other advertisement, the court shall exclude such issue from the operation of the restraining order or injunction.

[1945 c 257 § 23; Rem. Supp. 1945 § 6163-72.]

Notes:

Injunctions, generally: Chapter [7.40](#) RCW.

69.04.060

Criminal penalty for violations.

Any person who violates any provision of RCW [69.04.040](#) is guilty of a misdemeanor and shall on conviction thereof be subject to the following penalties:

(1) A fine of not more than two hundred dollars; or

(2) If the violation is committed after a conviction of such person under this section has become final, imprisonment for not more than thirty days, or a fine of not more than five hundred dollars, or both such imprisonment and fine.

[2003 c 53 § 314; 1945 c 257 § 24; Rem. Supp. 1945 § 6163-73. Prior: 1907 c 211 § 12; 1901 c 94 § 11.]

Notes:

Intent -- Effective date -- 2003 c 53:
See notes following RCW [2.48.180](#).

69.04.070

Additional penalty.

Notwithstanding the provisions of RCW [69.04.060](#), a person who violates RCW [69.04.040](#) with intent to defraud or mislead is guilty of a misdemeanor and the penalty shall be imprisonment for not more than ninety days, or a fine of not more than one thousand dollars, or both such imprisonment and fine.

[2003 c 53 § 315; 1945 c 257 § 25; Rem. Supp. 1945 § 6163-74.]

Notes:

Intent -- Effective date -- 2003 c 53:
See notes following RCW [2.48.180](#).

69.04.080
Avoidance of penalty.

No person shall be subject to the penalties of RCW [69.04.060](#):

(1) For having violated RCW [69.04.040](#)(3), if he establishes that he received and sold such article in good faith, unless he refuses on request of the director to furnish the name and address of the person in the state of Washington from whom he received such article and copies of all available documents pertaining to his receipt thereof; or

(2) For having violated RCW [69.04.040](#) (1), (3), or (4), if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person in the state of Washington from whom he received such article in good faith, to the effect that such article complies with this chapter; or

(3) For having violated RCW [69.04.040](#)(5), if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person in the state of Washington from whom he received such advertisement in good faith, to the effect that such advertisement complies with this chapter; or

(4) For having violated RCW [69.04.040](#)(9), if he establishes that he gave such guaranty or undertaking in good faith and in reliance on a guaranty or undertaking to him, which guaranty or undertaking was to the same effect and was signed by, and contained the name and address of, a person in the state of Washington.

[1945 c 257 § 26; Rem. Supp. 1945 § 6163-75.]

69.04.090
Liability of disseminator of advertisement.

No publisher, radio broadcast licensee, advertising agency, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which the advertisement relates, shall be subject to the penalties of RCW [69.04.060](#) by reason of his dissemination of any false advertisement, unless he has refused on the

request of the director to furnish the name and address of the manufacturer, packer, distributor, seller, or advertising agency in the state of Washington, who caused him to disseminate such false advertisement.

[1945 c 257 § 27; Rem. Supp. 1945 § 6163-76.]

69.04.100
Condemnation of adulterated or misbranded article.

Whenever the director shall find in intrastate commerce an article subject to this chapter which is so adulterated or misbranded that it is unfit or unsafe for human use and its immediate condemnation is required to protect the public health, such article is hereby declared to be a nuisance and the director is hereby authorized forthwith to destroy such article or to render it unsalable for human use.

[1945 c 257 § 28; Rem. Supp. 1945 § 6163-77.]

69.04.110
Embargo of articles.

Whenever the director shall find, or shall have probable cause to believe, that an article subject to this chapter is in intrastate commerce in violation of this chapter, and that its embargo under this section is required to protect the consuming or purchasing public, due to its being adulterated or misbranded, or to otherwise protect the public from injury, or possible injury, he or she is hereby authorized to affix to such article a notice of its embargo and against its sale in intrastate commerce, without permission given under this chapter. But if, after such article has been so embargoed, the director shall find that such article does not involve a violation of this chapter, such embargo shall be forthwith removed.

[1991 c 162 § 3; 1975 1st ex.s. c 7 § 25; 1945 c 257 § 29; Rem. Supp. 1945 § 6163-78.]

Notes:

Purpose of section: See RCW [69.04.398](#).

69.04.120
Procedure on embargo.

When the director has embargoed an article, he or she shall, forthwith and without delay and in no event later than thirty days after the affixing of notice of its embargo, petition the superior court for an order affirming the embargo. The court then has jurisdiction, for cause shown and after prompt hearing to any claimant of the embargoed article, to issue an order which directs the removal of the embargo or the destruction or the correction and release of the article. An order for destruction or correction and release shall contain such provision for the payment of pertinent court costs and fees and administrative expenses as is equitable and which the court deems appropriate in the circumstances. An order for correction and release may contain such provision for a bond as the court finds indicated in the circumstances.

[1991 c 162 § 4; 1983 c 95 § 8; 1945 c 257 § 30; Rem. Supp. 1945 § 6163-79.]

69.04.123

Exception to petition requirement under RCW 69.04.120.

The director need not petition the superior court as provided for in RCW [69.04.120](#) if the owner or claimant of such food or food products agrees in writing to the disposition of such food or food products as the director may order.

[1995 c 374 § 20.]

Notes:

Effective date -- 1995 c 374 §§ 1-47, 50-53, and 59-68: See note following RCW [15.36.012](#).

69.04.130

Petitions may be consolidated.

Two or more petitions under RCW [69.04.120](#), which pend at the same time and which present the same issue and claimant hereunder, shall be consolidated for simultaneous determination by one court of jurisdiction, upon application to any court of jurisdiction by the director or by such claimant.

[1945 c 257 § 31; Rem. Supp. 1945 § 6163-80.]

69.04.140

Claimant entitled to sample.

The claimant in any proceeding by petition under RCW [69.04.120](#) shall be entitled to receive a representative sample of the article subject to such proceeding, upon application to the court of jurisdiction made at any time after such petition and prior to the hearing thereon.

[1945 c 257 § 32; Rem. Supp. 1945 § 6163-81.]

69.04.150

Damages not recoverable if probable cause existed.

No state court shall allow the recovery of damages from administrative action for condemnation under RCW [69.04.100](#) or for embargo under RCW [69.04.110](#), if the court finds that there was probable cause for such action.

[1945 c 257 § 33; Rem. Supp. 1945 § 6163-82.]

69.04.160

Prosecutions.

(1) It shall be the duty of each state attorney, county attorney, or city attorney to whom the director reports any violation of this chapter, or regulations promulgated under it, to cause appropriate proceedings to be instituted in the proper courts, without delay, and to be duly prosecuted as prescribed by law.

(2) Before any violation of this chapter is reported by the director to any such attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views to the director, either orally or in writing, with regard to such contemplated proceeding.

[1945 c 257 § 34; Rem. Supp. 1945 § 6163-83.]

69.04.170

Minor infractions.

Nothing in this chapter shall be construed as requiring the director to report for the institution of proceedings under this chapter, minor violations of this chapter, whenever he believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

[1945 c 257 § 35; Rem. Supp. 1945 § 6163-84.]

69.04.180

Proceedings to be in name of state.

All such proceedings for the enforcement, or to restrain violations, of this chapter shall be by and in the name of the state of Washington.

[1945 c 257 § 36; Rem. Supp. 1945 § 6163-85.]

69.04.190

Standards may be prescribed by regulations.

Whenever in the judgment of the director such action will promote honesty and fair dealing in the interest of consumers, he shall promulgate regulations fixing and establishing for any food, under its common or usual name so far as practicable, a reasonable definition and standard of identity, a reasonable standard of quality, and/or reasonable standards of fill of container. In prescribing any standard of fill of container, consideration shall be given to and due allowance shall be made for product or volume shrinkage or expansion unavoidable in good commercial practice, and need for packing and protective material. In prescribing any standard of quality for any canned fruit or canned vegetable, consideration shall be given to and due allowance shall be made for the differing characteristics of the several varieties thereof. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the director shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label.

[1945 c 257 § 37; Rem. Supp. 1945 § 6163-86. Prior: 1917 c 168 § 2.]

69.04.200

Conformance with federal standards.

The definitions and standards of identity, the standards of quality and fill of container, and the label requirements prescribed by regulations promulgated under *this section shall conform, insofar as practicable, with those prescribed by regulations promulgated under section 401 of the federal act and to the definitions and standards promulgated under the meat inspection act approved March 4, 1907, as amended.

[1945 c 257 § 38; Rem. Supp. 1945 § 6163-87.]

Notes:

***Reviser's note:** The language "this section" appears in 1945 c 257 § 38 but apparently refers to 1945 c 257 § 37 codified as RCW [69.04.190](#).

69.04.205

Bacon — Packaging at retail to reveal quality and leanness.

All packaged bacon other than that packaged in cans shall be offered and exposed for sale and sold, within the state of Washington only at retail in packages which permit the buyer to readily view the quality and degree of leanness of the product.

[1971 c 49 § 1.]

69.04.206

Bacon — Rules, regulations and standards — Withholding packaging use — Hearing — Final determination — Appeal.

The director of the department of agriculture is hereby authorized to promulgate rules, regulations, and standards for the implementation of RCW [69.04.205](#) through [69.04.207](#). If the director has reason to believe that any packaging method, package, or container in use or proposed for use with respect to the marketing of bacon is false or misleading in any particular, or does not meet the requirements of RCW [69.04.205](#), he may direct that such use be withheld unless the packaging method, package, or container is modified in such manner as he may prescribe so that it will not be false or misleading. If the person, firm, or corporation using or proposing to use the packaging method, package, or container does not accept the determination of the director such person, firm, or corporation may request a hearing, but the use of the packaging method, package, or container shall, if the director so directs, be withheld pending hearing and final determination by the director. Any such determination by the director shall be conclusive unless, within thirty days after receipt of notice of such final determination, the person, firm, or corporation adversely affected thereby appeals to a court of proper jurisdiction.

[1971 c 49 § 2.]

69.04.207

Bacon — Effective date.

RCW [69.04.205](#) through [69.04.207](#) shall take effect on January 1, 1972.

[1971 c 49 § 3.]

69.04.210

Food — Adulteration by poisonous or deleterious substance.

A food shall be deemed to be adulterated:

(1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health; or

(2)(a) If it bears or contains any added poisonous or added deleterious substance (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive, or (iii) a color additive) which is unsafe within the meaning of RCW [69.04.390](#), or (b) if it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of RCW [69.04.392](#), or (c) if it is, or it bears or contains, any food additive which is unsafe within the meaning of RCW [69.04.394](#): PROVIDED, That where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under RCW [69.04.392](#) and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed food shall, notwithstanding the provisions of RCW [69.04.390](#) and [69.04.394](#), not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed food when ready to eat is not greater than the tolerance prescribed for the raw agricultural commodity; or

(3) If it consists in whole or in part of any diseased, contaminated, filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or

(4) If it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome, or injurious to health; or

(5) If it is in whole or in part the product of a diseased animal or of an animal which has died otherwise than by slaughter or which has been fed on the uncooked offal from a slaughterhouse; or

(6) If its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health; or

(7) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to RCW [69.04.394](#).

[1963 c 198 § 1; 1945 c 257 § 39; Rem. Supp. 1945 § 6163-88. Prior: 1923 c 36 § 1; 1907 c 211 § 3; 1901 c 94 § 3.]

69.04.220

Food — Adulteration by abstraction, addition, substitution, etc.

A food shall be deemed to be adulterated (1) if any valuable constituent has been in whole or in part omitted or abstracted therefrom; or (2) if any substance has been substituted wholly or in part therefor; or (3) if damage or inferiority has been concealed in any manner; or (4) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

[1945 c 257 § 40; Rem. Supp. 1945 § 6163-89.]

69.04.231

Food — Adulteration by color additive.

A food shall be deemed to be adulterated if it is, or it bears or contains a color additive which is unsafe within the meaning of RCW [69.04.396](#).

[1963 c 198 § 5.]

69.04.240

Confectionery — Adulteration.

A food shall be deemed to be adulterated if it is confectionery and it bears or contains any alcohol from natural or artificial alcohol flavoring in excess of one percent of the weight of the confection or any nonnutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-

tenths of one percent, natural gum, and pectin. This section shall not apply to any chewing gum by reason of its containing harmless nonnutritive masticatory substances, or to any confection permitted to be sold by an endorsement from the liquor control board under RCW [66.24.360](#).

[2007 c 226 § 3; 1984 c 78 § 2; 1945 c 257 § 42; Rem. Supp. 1945 § 6163-91. Prior: 1923 c 36 § 1, part; 1907 c 211 § 3, part.]

Notes:

**Finding and declaration --
Severability -- 1984 c 78:** See notes following RCW [66.12.160](#).

69.04.245

Poultry — Improper use of state's geographic outline.

Uncooked poultry is deemed to be misbranded if it is produced outside of this state but the label for the poultry contains the geographic outline of this state.

[1989 c 257 § 2.]

Notes:

Legislative findings -- 1989 c 257:
"The legislature finds that: Poultry produced in this state is known throughout the state for its high quality; and one of the sources of that quality is the proximity of production centers to retail outlets in the state. The legislature also finds that labeling which misrepresents poultry produced elsewhere as being a product of this state may lead consumers to purchase products which they would not otherwise purchase. The legislature further finds that the presence of the geographic outline of this state on a label for poultry produced outside of the state misrepresents the product as having been produced in this state." [1989 c 257 § 1.]

69.04.250

Food — Misbranding by false label, etc.

A food shall be deemed to be misbranded (1) if its labeling is false or misleading in any particular; or (2) if it is offered for sale under the name of another food; or (3) if it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; or (4) if its container is so made, formed or filled as to be misleading.

[1945 c 257 § 43; Rem. Supp. 1945 § 6163-92. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.260

Packaged food — Misbranding.

If a food is in package form, it shall be deemed to be misbranded, unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: PROVIDED, That under clause (2) of this section reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations promulgated by the director.

[1945 c 257 § 44; Rem. Supp. 1945 § 6163-93.]

69.04.270

Food — Misbranding by lack of prominent label.

A food shall be deemed to be misbranded if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

[1945 c 257 § 45; Rem. Supp. 1945 § 6163-94.]

69.04.280

Food — Misbranding for nonconformity with standard of identity.

If a food purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by RCW [69.04.190](#), it shall be deemed to be misbranded unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard, and, insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food.

[1945 c 257 § 46; Rem. Supp. 1945 § 6163-95.]

69.04.290

Food — Misbranding for nonconformity with standard of quality.

If a food purports to be or is represented as a food for which a standard of quality has been prescribed by regulations as provided by RCW [69.04.190](#), and its quality falls below such standard, it shall be deemed to be misbranded unless its label bears in such manner and form as such regulations specify, a statement that it falls below such standard.

[1945 c 257 § 47; Rem. Supp. 1945 § 6163-96.]

69.04.300

Food — Misbranding for nonconformity with standard of fill.

If a food purports to be or is represented as a food for which a standard or standards of fill of container have been prescribed by regulations as provided by RCW [69.04.190](#), and it falls below the standard of fill of container applicable thereto, it shall be deemed to be misbranded unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard.

[1945 c 257 § 48; Rem. Supp. 1945 § 6163-97.]

69.04.310

Food — Misbranding by failure to show usual name and ingredients.

If a food is not subject to the provisions of RCW [69.04.280](#), it shall be deemed to be misbranded unless its label bears (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from two or

more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings without naming each: PROVIDED, That, to the extent that compliance with the requirements of clause (2) of this section is impracticable, or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the director.

[1945 c 257 § 49; Rem. Supp. 1945 § 6163-98.]

69.04.315

Halibut — Misbranding by failure to show proper name.

No person shall label or offer for sale any food fish product designated as halibut, with or without additional descriptive words unless such food fish product is *Hippoglossus Hippoglossus* or *Hippoglossus Stenolepis*. Any person violating the provisions of this section shall be guilty of misbranding under the provisions of this chapter.

[1967 ex.s. c 79 § 1.]

69.04.320

Food — Misbranding by failure to show dietary properties.

If a food purports to be or is represented for special dietary uses, it shall be deemed to be misbranded, unless its label bears such information concerning its vitamin, mineral and other dietary properties as is necessary in order to fully inform purchasers as to its value for such uses, as provided by regulations promulgated by the director, such regulations to conform insofar as practicable with regulations under section 403(j) of the federal act.

[1945 c 257 § 50; Rem. Supp. 1945 § 6163-99.]

69.04.330

Food — Misbranding by failure to show artificial flavoring, coloring, etc.

If a food bears or contains any artificial flavoring, artificial coloring, or chemical preservative, it shall be deemed to be misbranded unless it bears labeling stating that fact: PROVIDED, That to the extent that compliance with the requirements of this section is impracticable, exemptions shall be established by regulations promulgated by the

director. The provisions of this section and of RCW [69.04.280](#) and [69.04.310](#), with respect to artificial coloring, shall not apply in the case of butter, cheese, or ice cream.

[1945 c 257 § 51; Rem. Supp. 1945 § 6163-100.]

69.04.331

Popcorn sold by theaters or commercial food service establishments — Misbranded if the use of butter or ingredients of butter-like flavoring not disclosed.

(1) If a theater or other commercial food service establishment prepares and sells popcorn for human consumption, the establishment, at the point of sale, shall disclose by posting a sign in a conspicuous manner to prospective consumers a statement as to whether the butter or butter-like flavoring added to or attributed to the popcorn offered for sale is butter as defined in *RCW [15.32.010](#) or is some other product. If the flavoring is some other product, the establishment shall also disclose the ingredients of the product.

The director of agriculture shall adopt rules prescribing the size and content of the sign upon which the disclosure is to be made. Any popcorn sold by or offered for sale by such an establishment to a consumer in violation of this section or the rules of the director implementing this section shall be deemed to be misbranded for the purposes of this chapter.

(2) The provisions of subsection (1) of this section do not apply to packaged popcorn labeled so as to disclose ingredients as required by law for prepackaged foods.

[1986 c 203 § 17.]

Notes:

***Reviser's note:** RCW [15.32.010](#) was recodified as RCW [15.36.012](#) pursuant to 1994 c 143 § 514.

Severability -- 1986 c 203: See note following RCW [15.17.230](#).

69.04.333

Poultry and poultry products — Label to indicate if product frozen.

It shall be unlawful for any person to sell at retail or display for sale at retail any poultry and poultry products, including turkey, which has been frozen at any time, without having the package or container in which the same is sold bear a label clearly discernible to a customer that such product has been frozen and whether or not the same has since been thawed. No such poultry or poultry product shall be sold unless in such a package or container bearing said label.

[1969 ex.s. c 194 § 1.]

69.04.334

Turkeys — Label requirement as to grading.

No person shall advertise for sale, sell, offer for sale or hold for sale in intrastate commerce any turkey that does not bear a label. Such label shall be properly displayed on the package if such turkey is prepackaged, or attached to the turkey if not prepackaged. Such label shall, if the turkey has been graded, state the name of the governmental agency, whether federal or state, and the grade. No turkey which has been graded may be labeled as being ungraded. Any advertisement in any media concerning the sale of turkeys shall state or set forth whether a turkey is ungraded or graded and the specific grade if graded.

[1969 ex.s. c 194 § 2.]

69.04.335

RCW 69.04.333 and 69.04.334 subject to enforcement and penalty provisions of chapter.

The provisions of this chapter shall be applicable to the enforcement of RCW [69.04.333](#) and [69.04.334](#) and any person violating the provisions of RCW [69.04.333](#) and [69.04.334](#) shall be subject to the applicable civil and criminal penalties for such violations as provided for in this chapter.

[1969 ex.s. c 194 § 3.]

69.04.340

Natural vitamin, mineral, or dietary properties need not be shown.

Nothing in this chapter shall be construed to require the labeling or advertising to indicate the natural vitamin, natural mineral, or other natural dietary properties of dairy products or other agricultural products when sold as food.

[1945 c 257 § 52; Rem. Supp. 1945 § 6163-101.]

69.04.350

Permits to manufacture or process certain foods.

Whenever the director finds after investigation that the distribution in intrastate commerce of any class of food may, by reason of contamination with micro-organisms during the manufacture, processing, or packing thereof in any locality, be injurious to health, and that such injurious nature cannot be adequately determined after such articles have entered intrastate commerce, he then, and in such case only, shall promulgate regulations providing for the issuance, to manufacturers, processors, or packers of such class of food in such locality, of permits to which shall be attached such conditions governing the manufacture, processing, or packing of such class of food, for such temporary period of time, as may be necessary to protect the public health; and after the effective date of such regulations, and during such temporary period, no person shall introduce or deliver for introduction into intrastate commerce, any such food manufactured, processed, or packed by any such manufacturer, processor, or packer unless such manufacturer, processor, or packer holds a permit issued by the director as provided by such regulations. Insofar as practicable such regulations shall conform with, shall specify the conditions prescribed by, and shall remain in effect only so long as those promulgated under section 404(a) of the federal act.

[1945 c 257 § 53; Rem. Supp. 1945 § 6163-102.]

69.04.360

Suspension of permit.

The director is authorized to suspend immediately upon notice any permit issued under authority of *this section, if it is found that any of the conditions of the permit have been violated. The holder of a permit so suspended shall be privileged at any time to apply for the reinstatement of such permit, and the director shall, immediately after prompt hearing and an inspection of the factory or establishment, reinstate such permit, if it is found that

adequate measures have been taken to comply with and maintain the conditions of the permit, as originally issued or as amended.

[1945 c 257 § 54; Rem. Supp. 1945 § 6163-103.]

Notes:

***Reviser's note:** The language "this section" appears in 1945 c 257 § 54 but apparently refers to 1945 c 257 § 53 codified as RCW [69.04.350](#).

69.04.370

Right of access for inspection.

Any officer or employee duly designated by the director shall have access to any factory or establishment, the operator of which holds a permit from the director, for the purpose of ascertaining whether or not the conditions of the permit are being complied with, and denial of access for such inspection shall be ground for suspension of the permit until such access is freely given by the operator.

[1945 c 257 § 55; Rem. Supp. 1945 § 6163-104.]

69.04.380

Food exempt if in transit for completion purposes.

Food which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at an establishment other than the establishment where it was originally processed or packed, is exempted from the affirmative labeling requirements of this chapter, while it is in transit in intrastate commerce from the one establishment to the other, if such transit is made in good faith for such completion purposes only; but it is otherwise subject to all the applicable provisions of this chapter.

[1945 c 257 § 56; Rem. Supp. 1945 § 6163-105.]

69.04.390

Regulations permitting tolerance of harmful matter.

Any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, shall be deemed unsafe for purposes of the application of clause (2)(a) of RCW [69.04.210](#); but when such substance is so required or cannot be so avoided, the director shall promulgate regulations limiting the quantity therein or thereon to such extent as he finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall also be deemed unsafe for purposes of the application of clause (2)(a) of RCW [69.04.210](#). While such a regulation is in effect limiting the quantity of any such substance in the case of any food, such food shall not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of clause (1) of RCW [69.04.210](#). In determining the quantity of such added substance to be tolerated in or on different articles of food, the director shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article, and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances.

[1963 c 198 § 2; 1945 c 257 § 57; Rem. Supp. 1945 § 6163-106.]

69.04.392

Regulations permitting tolerance of harmful matter — Pesticide chemicals in or on raw agricultural commodities.

(1) Any poisonous or deleterious pesticide chemical, or any pesticide chemical which generally is recognized among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals as unsafe for use, added to a raw agricultural commodity, shall be deemed unsafe for the purpose of the application of clause (2) of RCW [69.04.210](#) unless:

(a) A tolerance for such pesticide chemical in or on the raw agricultural commodity has been prescribed pursuant to subsection (2) hereof and the quantity of such pesticide chemical in or on the raw agricultural commodity is within the limits of the tolerance so prescribed; or

(b) With respect to use in or on such raw agricultural commodity, the pesticide chemical has been exempted from the requirement of a tolerance pursuant to subsection (2) hereof.

While a tolerance or exemption from tolerance is in effect for a pesticide chemical with respect to any raw agricultural commodity, such raw agricultural commodity shall not, by reason of bearing or containing any added amount of such pesticide chemical, be considered to be adulterated within the meaning of clause (1) of RCW [69.04.210](#).

(2) The regulations promulgated under section 408 of the Federal Food, Drug and Cosmetic Act, as of July 1, 1975, setting forth the tolerances for pesticide chemicals in or on any raw agricultural commodity, are hereby adopted as the regulations for tolerances applicable to this chapter: PROVIDED, That the director is hereby authorized to adopt by regulation any new or future amendments to such federal regulations for tolerances, including exemption from tolerance and zero tolerances, to the extent necessary to protect the public health. The director is also authorized to issue regulations in the absence of federal regulations and to prescribe therein tolerances for pesticides, exemptions, and zero tolerances, upon his own motion or upon the petition of any interested party requesting that such a regulation be established. It shall be incumbent upon such petitioner to establish, by data submitted to the director, that a necessity exists for such regulation and that the effect of such regulation will not be detrimental to the public health. If the data furnished by the petitioner is not sufficient to allow the director to determine whether such a regulation should be promulgated, the director may require additional data to be submitted and failure to comply with this request shall be sufficient grounds to deny the request of the petitioner for the issuance of such regulation.

(3) In adopting any new or amended tolerances by regulation issued pursuant to this section, the director shall give appropriate consideration, among other relevant factors, to the following: (a) The purpose of this chapter being to promote uniformity of state legislation with the federal act; (b) the necessity for the production of an adequate, wholesome, and economical food supply; (c) the other ways in which the consumer may be affected by the same pesticide chemical or by other related substances that are poisonous or deleterious; and (d) the opinion of experts qualified by scientific training and experience to determine the proper tolerance to be allowed for any pesticide chemical.

[1975 1st ex.s. c 7 § 26; 1963 c 198 § 3.]

Notes:

Purpose of section: See RCW [69.04.398](#).

69.04.394

Regulations permitting tolerance of harmful matter — Food additives.

(1) A food additive shall, with respect to any particular use or intended use of such additives, be deemed unsafe for the purpose of the application of clause (2)(c) of RCW [69.04.210](#), unless:

(a) It and its use or intended use conform to the terms of an exemption granted, pursuant to a regulation under

subsection (2) hereof providing for the exemption from the requirements of this section for any food additive, and any food bearing or containing such additive, intended solely for investigational use by qualified experts when in the director's opinion such exemption is consistent with the public health; or

(b) There is in effect, and it and its use or intended use are in conformity with a regulation issued or effective under subsection (2) hereof prescribing the conditions under which such additive may be safely used.

While such a regulation relating to a food additive is in effect, a food shall not, by reason of bearing or containing such an additive in accordance with the regulation, be considered adulterated within the meaning of clause (1) of RCW [69.04.210](#).

(2) The regulations promulgated under section 409 of the Federal Food, Drug and Cosmetic Act, as of July 1, 1975, prescribing the conditions under which such food additive may be safely used, are hereby adopted as the regulations applicable to this chapter: PROVIDED, That the director is hereby authorized to adopt by regulation any new or future amendments to the federal regulations. The director is also authorized to issue regulations in the absence of federal regulations and to prescribe the conditions under which a food additive may be safely used and exemptions where such food additive is to be used solely for investigational purposes; either upon his or her own motion or upon the petition of any interested party requesting that such a regulation be established. It shall be incumbent upon such petitioner to establish, by data submitted to the director, that a necessity exists for such regulation and that the effect of such a regulation will not be detrimental to the public health. If the data furnished by the petitioner is not sufficient to allow the director to determine whether such a regulation should be promulgated, the director may require additional data to be submitted and failure to comply with this request shall be sufficient grounds to deny the request of the petitioner for the issuance of such a regulation.

(3) In adopting any new or amended regulations pursuant to this section, the director shall give appropriate consideration, among other relevant factors, to the following: (a) The purpose of this chapter being to promote uniformity of state legislation with the federal act; (b) the probable consumption of the additive and of any substance formed in or on food because of the use of the additive; (c) the cumulative effect of such additive in the diet of human beings or animals, taking into account any chemically or pharmacologically related substance or substances in such diet; and (d) safety factors which in the opinion of experts qualified by scientific training and experience to evaluate the safety of food additives are generally recognized as appropriate for the use of animal experimentation data.

[2009 c 549 § 1021; 1975 1st ex.s. c 7 § 27; 1963 c 198 § 4.]

Notes:

Purpose of section: See RCW

69.04.398.

69.04.396

Regulations permitting tolerance of harmful matter — Color additives.

(1) A color additive shall, with respect to any particular use (for which it is being used or intended to be used or is represented as suitable) in or on food, be deemed unsafe for the purpose of the application of RCW [69.04.231](#), unless:

(a) There is in effect, and such color additive and such use are in conformity with, a regulation issued under this section listing such additive for such use, including any provision of such regulation prescribing the conditions under which such additive may be safely used;

(b) Such additive and such use thereof conform to the terms of an exemption for experimental use which is in effect pursuant to regulation under this section.

While there are in effect regulations under this section relating to a color additive or an exemption with respect to such additive a food shall not, by reason of bearing or containing such additive in all respects in accordance with such regulations or such exemption, be considered adulterated within the meaning of clause (1) of RCW [69.04.210](#).

(2) The regulations promulgated under section 706 of the Federal Food, Drug and Cosmetic Act, as of July 1, 1975, prescribing the use or limited use of such color additive, are hereby adopted as the regulations applicable to this chapter: PROVIDED, That the director is hereby authorized to adopt by regulation any new or future amendments to the federal regulations. The director is also authorized to issue regulations in the absence of federal regulations and to prescribe therein the conditions under which a color additive may be safely used including exemptions for experimental purposes. Such a regulation may be issued either upon the director's own motion or upon the petition of any interested party requesting that such a regulation be established. It shall be incumbent upon such petitioner to establish, by data submitted to the director, that a necessity exists for such regulation and that the effect of such a regulation will not be detrimental to the public health. If the data furnished by the petitioner is not sufficient to allow the director to determine whether such a regulation should be promulgated, the director may require additional data to be submitted and failure to comply with this request shall be sufficient grounds to deny the request of the petitioner for the issuance of such a regulation.

(3) In adopting any new or amended regulations pursuant to this section, the director shall give appropriate consideration, among other relevant factors, to the following: (a) The purpose of this chapter being to promote uniformity of state legislation with the federal act; (b) the

probable consumption of, or other relevant exposure from, the additive and of any substance formed in or on food because of the use of the additive; (c) the cumulative effect, if any, of such additive in the diet of human beings or animals, taking into account the same or any chemically or pharmacologically related substance or substances in such diet; (d) safety factors which, in the opinion of experts qualified by scientific training and experience to evaluate the safety of color additives for the use or uses for which the additive is proposed to be listed, are generally recognized as appropriate for the use of animal experimentation data; (e) the availability of any needed practicable methods of analysis for determining the identity and quantity of (i) the pure dye and all intermediates and other impurities contained in such color additives, (ii) such additive in or on any article of food, and (iii) any substance formed in or on such article because of the use of such additive; and (f) the conformity by the manufacturer with the established standards in the industry relating to the proper formation of such color additive so as to result in a finished product safe for use as a color additive.

[2009 c 549 § 1022; 1975 1st ex.s. c 7 § 28; 1963 c 198 § 6.]

Notes:

Purpose of section: See RCW [69.04.398](#).

Food -- Adulteration by color additive:
RCW [69.04.231](#).

69.04.398

Purpose of RCW 69.04.110, 69.04.392, 69.04.394, 69.04.396 — Uniformity with federal laws and regulations — Application to production of kosher food products — Adoption of rules.

(1) The purpose of RCW [69.04.110](#), [69.04.392](#), [69.04.394](#), and [69.04.396](#) is to promote uniformity of state legislation and rules with the Federal Food, Drug and Cosmetic Act 21 USC 301 et seq. and regulations adopted thereunder. In accord with such declared purpose any regulation adopted under said federal food, drug and cosmetic act concerning food in effect on July 1, 1975, and not adopted under any other specific provision of RCW [69.04.110](#), [69.04.392](#), [69.04.394](#), and [69.04.396](#) are hereby deemed to have been adopted under the provision hereof. Further, to promote such uniformity any regulation adopted hereafter under the provisions of the federal food, drug and cosmetic act concerning food and published in the federal register shall be deemed to have been adopted under the provisions of RCW [69.04.110](#),

[69.04.392](#), [69.04.394](#), and [69.04.396](#) in accord with chapter [34.05](#) RCW as enacted or hereafter amended. The director may, however, within thirty days of the publication of the adoption of any such regulation under the federal food, drug and cosmetic act give public notice that a hearing will be held to determine if such regulation shall not be applicable under the provisions of RCW [69.04.110](#), [69.04.392](#), [69.04.394](#), and [69.04.396](#). Such hearing shall be in accord with the requirements of chapter [34.05](#) RCW as enacted or hereafter amended.

(2) The provisions of subsection (1) of this section do not apply to rules adopted by the director as necessary to permit the production of kosher food products as defined in RCW [69.90.010](#).

(3) Notwithstanding the provisions of subsections (1) and (2) of this section the director may adopt rules necessary to carry out the provisions of this chapter.

[1991 c 162 § 5; 1986 c 203 § 18; 1975 1st ex.s. c 7 § 36.]

Notes:

Severability -- 1986 c 203: See note following RCW [15.17.230](#).

69.04.399

Civil penalty for violations of standards for component parts of fluid dairy products adopted under RCW 69.04.398.

See RCW [15.36.471](#).

69.04.400

Conformance with federal regulations.

The regulations promulgated under RCW [69.04.390](#) shall conform, insofar as practicable, with those promulgated under section 406 of the federal act.

[1963 c 198 § 7; 1945 c 257 § 58; Rem. Supp. 1945 § 6163-107.]

69.04.410

Drugs — Adulteration by harmful substances.

A drug or device shall be deemed to be adulterated (1) if it consists in whole or in part of any filthy, putrid, or decomposed substance; or (2) if it has been produced, prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health; or (3) if it is a drug and its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health; or (4) if it is a drug and it bears or contains, for purposes of coloring only, a coal tar color other than one that is harmless and suitable for use in drugs for such purposes, as provided by regulations promulgated under section 504 of the federal act.

[1945 c 257 § 59; Rem. Supp. 1945 § 6163-108. Prior: 1923 c 36 § 1; 1907 c 211 § 3; 1901 c 94 § 3.]

69.04.420

Drugs — Adulteration for failure to comply with compendium standard.

If a drug or device purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium, it shall be deemed to be adulterated. Such determination as to strength, quality or purity shall be made in accordance with the tests or methods of assay set forth in such compendium or prescribed by regulations promulgated under section 501(b) of the federal act. No drug defined in an official compendium shall be deemed to be adulterated under this section because it differs from the standard of strength, quality, or purity therefor set forth in such compendium, if its difference in strength, quality, or purity from such standard is plainly stated on its label. Whenever a drug is recognized in both the United States pharmacopoeia and the homeopathic pharmacopoeia of the United States, it shall be subject to the requirements of the United States pharmacopoeia unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the homeopathic pharmacopoeia of the United States and not to those of the United States pharmacopoeia.

[1945 c 257 § 60; Rem. Supp. 1945 § 6163-109.]

69.04.430

Drugs — Adulteration for lack of represented purity or quality.

If a drug or device is not subject to the provisions of RCW [69.04.420](#) and its strength differs from, or its purity or

quality falls below, that which it purports or is represented to possess, it shall be deemed to be adulterated.

[1945 c 257 § 61; Rem. Supp. 1945 § 6163-110.]

69.04.440

Drugs — Adulteration by admixture or substitution of ingredients.

A drug shall be deemed to be adulterated if any substance has been (1) mixed or packed therewith so as to reduce its quality or strength or (2) substituted wholly or in part therefor.

[1945 c 257 § 62; Rem. Supp. 1945 § 6163-111.]

69.04.450

Drugs — Misbranding by false labeling.

A drug or device shall be deemed to be misbranded if its labeling is false or misleading in any particular.

[1945 c 257 § 63; Rem. Supp. 1945 § 6163-112. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.460

Packaged drugs — Misbranding.

If a drug or device is in package form, it shall be deemed to be misbranded unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: PROVIDED, That under clause (2) of this section reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations promulgated by the director.

[1945 c 257 § 64; Rem. Supp. 1945 § 6163-113. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.470

Drugs — Misbranding by lack of prominent label.

A drug or device shall be deemed to be misbranded if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

[1945 c 257 § 65; Rem. Supp. 1945 § 6163-114. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.480

Drugs — Misbranding for failure to state content of habit forming drug.

A drug or device shall be deemed to be misbranded if it is for use by human beings and contains any quantity of the narcotic or hypnotic substance alpha eucaïne, barbituric acid, beta eucaïne, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marijuana, morphine, opium, paraldehyde, peyote, or sulphomethane; or any chemical derivative of such substance, which derivative has been designated as habit forming by regulations promulgated under section 502(d) of the federal act; unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning -- May be habit forming."

[2009 c 549 § 1023; 1945 c 257 § 66; Rem. Supp. 1945 § 6163-115. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.490

Drugs — Misbranding by failure to show usual name and ingredients.

If a drug is not designated solely by a name recognized in an official compendium it shall be deemed to be misbranded unless its label bears (1) the common or usual name of the drug, if such there be; and (2), in case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the quantity, kind, and proportion of any alcohol, and also including, whether active or not, the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein: PROVIDED, That to the extent that compliance with the requirements of clause (2) of this section is impracticable, exemptions shall be established by regulations promulgated by the director.

[1945 c 257 § 67; Rem. Supp. 1945 § 6163-116. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.500

Drugs — Misbranding by failure to give directions for use and warnings.

A drug or device shall be deemed to be misbranded unless its labeling bears (1) adequate directions for use; and (2) such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users: PROVIDED, That where any requirement of clause (1) of this section as applied to any drug or device, is not necessary for the protection of the public health, the director shall promulgate regulations exempting such drug or device from such requirements. Such regulations shall include the exemptions prescribed under section 502(f)(1) of the federal act, insofar as such exemptions are applicable hereunder.

[1945 c 257 § 68; Rem. Supp. 1945 § 6163-117. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.510

Drugs — Misbranding for improper packaging and labeling.

A drug or device shall be deemed to be misbranded if it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein: PROVIDED, That the method of packing may be modified with the consent of the director, as permitted under section 502(g) of the federal act. Whenever a drug is recognized in both the United States pharmacopoeia and the homeopathic pharmacopoeia of the United States, it shall be subject to the requirements of the United States pharmacopoeia with respect to packaging and labeling unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the homeopathic pharmacopoeia of the United States, and not to those of the United States pharmacopoeia.

[1945 c 257 § 69; Rem. Supp. 1945 § 6163-118. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.520

Drugs — Misbranding for failure to show possibility of deterioration.

If a drug or device has been found by the secretary of agriculture of the United States to be a drug liable to deterioration, it shall be deemed to be misbranded unless it is packaged in such form and manner, and its label bears a statement of such precautions, as required in an official compendium or by regulations promulgated under section 502(h) of the federal act for the protection of the public health.

[1945 c 257 § 70; Rem. Supp. 1945 § 6163-119. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.530

Drugs — Misbranding by misleading representation.

A drug shall be deemed to be misbranded if (1) its container is so made, formed, or filled as to be misleading; or (2) if it is an imitation of another drug; or (3) if it is offered for sale under the name of another drug; or (4) if it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof.

[1945 c 257 § 71; Rem. Supp. 1945 § 6163-120. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.540

Drugs — Misbranding by sale without prescription of drug requiring it.

A drug or device shall be deemed to be misbranded if it is a drug which by label provides, or which the federal act or any applicable law requires by label to provide, in effect, that it shall be used only upon the prescription of a physician, dentist, or veterinarian, unless it is dispensed at retail on a written prescription signed by a physician, dentist, or veterinarian, who is licensed by law to administer such a drug.

[1945 c 257 § 72; Rem. Supp. 1945 § 6163-121. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.550

Drugs exempt if in transit for completion purposes.

A drug or device which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at an establishment other than the establishment where it was originally processed or packed, is exempted from the affirmative labeling and packaging requirements of this chapter, while it is in transit in intrastate commerce from the one establishment to the other, if such transit is made in good faith for such completion purposes only; but it is otherwise subject to all the applicable provisions of this chapter.

[1945 c 257 § 73; Rem. Supp. 1945 § 6163-122.]

69.04.560

Dispensing of certain drugs exempt.

A drug dispensed on a written prescription signed by a physician, dentist, or veterinarian (except a drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail) shall, if (1) such physician, dentist, or veterinarian is licensed by law to administer such drug, and (2) such drug bears a label containing the name and place of business of the dispenser, the serial number and date of such prescription, and the name of such physician, dentist, or veterinarian, be exempt from the requirements of RCW [69.04.450](#) through [69.04.540](#).

[1945 c 257 § 74; Rem. Supp. 1945 § 6163-123.]

69.04.565

DMSO (dimethyl sulfoxide) authorized.

Notwithstanding any other provision of state law, DMSO (dimethyl sulfoxide) may be introduced into intrastate commerce as long as (1) it is manufactured or distributed by persons licensed pursuant to chapter [18.64](#) RCW or chapter [18.92](#) RCW, and (2) it is used, or intended to be used, in the treatment of human beings or animals for any ailment or adverse condition: PROVIDED, That DMSO intended for topical application, consistent with rules governing purity and labeling promulgated by the state board of pharmacy, shall not be considered a legend drug and may be sold by any retailer.

[1981 c 50 § 1.]

Notes:

DMSO use by health facilities, physicians:
RCW [70.54.190](#).

69.04.570

Introduction of new drug.

No person shall introduce or deliver for introduction into intrastate commerce any new drug which is subject to section 505 of the federal act unless an application with respect to such drug has become effective thereunder. No person shall introduce or deliver for introduction into intrastate commerce any new drug which is not subject to section 505 of the federal act, unless (1) it has been found, by appropriate tests, that such drug is not unsafe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; and (2) an application has been filed under this section of this chapter with respect to such drug: PROVIDED, That the requirement of clause (2) shall not apply to any drug introduced into intrastate commerce at any time prior to the enactment of this chapter or introduced into interstate commerce at any time prior to the enactment of the federal act: PROVIDED FURTHER, That if the director finds that the requirement of clause (2) as applied to any drug or class of drugs, is not necessary for the protection of the public health, he shall promulgate regulations of exemption accordingly.

[1945 c 257 § 75; Rem. Supp. 1945 § 6163-124.]

69.04.580

Application for introduction.

An application under RCW [69.04.570](#) shall be filed with the director, and subject to any waiver by the director, shall include (1) full reports of investigations which have been made to show whether or not the drug, subject to the application, is safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; (2) a full list of the articles used as components of such drug; (3) a full statement of the composition of such drug; (4) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug; (5) such samples of such drug and of the articles used as components thereof as the director may require; and (6) specimens of the labeling proposed to be used for such drug.

[1945 c 257 § 76; Rem. Supp. 1945 § 6163-125.]

69.04.590

Effective date of application.

An application filed under RCW [69.04.570](#) shall become effective on the sixtieth day after the filing thereof, unless the director (1) makes such application effective prior to

such day; or (2) issues an order with respect to such application pursuant to RCW [69.04.600](#).

[1945 c 257 § 77; Rem. Supp. 1945 § 6163-126.]

69.04.600

Denial of application.

If the director finds, upon the basis of the information before him and after due notice and opportunity for hearing to the applicant, that the drug, subject to the application, is not safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof, he shall, prior to such effective date, issue an order refusing to permit such application to become effective and stating the findings upon which it is based.

[1945 c 257 § 78; Rem. Supp. 1945 § 6163-127.]

69.04.610

Revocation of denial.

An order refusing to permit an application under RCW [69.04.570](#) to become effective may be suspended or revoked by the director, for cause and by order stating the findings upon which it is based.

[1945 c 257 § 79; Rem. Supp. 1945 § 6163-128.]

69.04.620

Service of order of denial.

Orders of the director issued under RCW [69.04.600](#) shall be served (1) in person by a duly authorized representative of the director or (2) by mailing the order by registered mail addressed to the applicant or respondent at his address last known to the director.

[1945 c 257 § 80; Rem. Supp. 1945 § 6163-129.]

69.04.630

Drug for investigational use exempt.

A drug shall be exempt from the operation of RCW [69.04.570](#) which is intended, and introduced or delivered for introduction into intrastate commerce, solely for investigational use by experts qualified by scientific training

and experience to investigate the safety of drugs and which is plainly labeled "For investigational use only."

[1945 c 257 § 81; Rem. Supp. 1945 § 6163-130.]

69.04.640

Court review of denial.

The superior court of Thurston county shall have jurisdiction to review and to affirm, modify, or set aside any order issued under RCW [69.04.600](#), upon petition seasonably made by the person to whom the order is addressed and after prompt hearing upon due notice to both parties.

[1945 c 257 § 82; Rem. Supp. 1945 § 6163-131.]

69.04.650

Dispensing of certain drugs exempt.

A drug dispensed on a written prescription signed by a physician, dentist, or veterinarian (except a drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail) shall, if (1) such physician, dentist, or veterinarian is licensed by law to administer such drug, and (2) such drug bears a label containing the name and place of business of the dispenser, the serial number and date of such prescription, and the name of such physician, dentist, or veterinarian, be exempt from the operation of RCW [69.04.570](#) through [69.04.640](#).

[1945 c 257 § 83; Rem. Supp. 1945 § 6163-132.]

69.04.660

Federally licensed drugs exempt.

The provisions of RCW [69.04.570](#) shall not apply to any drug which is licensed under the federal virus, serum, and toxin act of July 1, 1902; or under the federal virus, serums, toxins, antitoxins, and analogous products act of March 4, 1913.

[1945 c 257 § 84; Rem. Supp. 1945 § 6163-133.]

69.04.670

Cosmetics — Adulteration by injurious substances.

A cosmetic shall be deemed to be adulterated (1) if it bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling thereof, or under such conditions of use as are customary or usual: PROVIDED, That this provision shall not apply to coal tar hair dye, the label of which bears the following legend conspicuously displayed thereon: "Caution -- This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying direction should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness.", and the labeling of which bears adequate directions for such preliminary testing. For the purposes of this paragraph and paragraph (5) the term "hair dye" shall not include eyelash dyes or eyebrow dyes; or (2) if it consists in whole or in part of any filthy, putrid, or decomposed substance; or (3) if it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; or (4) if its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health; or (5) if it is not a hair dye and it bears or contains a coal tar color other than one that is harmless and suitable for use in cosmetics, as provided by regulations promulgated under section 604 of the federal act.

[1945 c 257 § 85; Rem. Supp. 1945 § 6163-134.]

69.04.680

Cosmetics — Misbranding by false label, etc.

A cosmetic shall be deemed to be misbranded (1) if its labeling is false or misleading in any particular; or (2) if in package form, unless it bears a label containing (a) the name and place of business of the manufacturer, packer, or distributor; and (b) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: PROVIDED, That under clause (b) of this section reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the director.

[1945 c 257 § 86; Rem. Supp. 1945 § 6163-135.]

69.04.690

Cosmetics — Misbranding by lack of prominent label.

A cosmetic shall be deemed to be misbranded (1) if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; or (2) if its container is so made, formed, or filled as to be misleading.

[1945 c 257 § 87; Rem. Supp. 1945 § 6163-136.]

69.04.700

Cosmetics exempt if in transit for completion purposes.

A cosmetic which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at an establishment other than the establishment where it was originally processed or packed, is exempted from the affirmative labeling requirements of this chapter, while it is in transit in intrastate commerce from the one establishment to the other, if such transit is made in good faith for such completion purposes only; but it is otherwise subject to all the applicable provisions of this chapter.

[1945 c 257 § 88; Rem. Supp. 1945 § 6163-137.]

69.04.710

Advertisement, when deemed false.

An advertisement of a food, drug, device, or cosmetic shall be deemed to be false, if it is false or misleading in any particular.

[1945 c 257 § 89; Rem. Supp. 1945 § 6163-138.]

69.04.720

Advertising of cure of certain diseases deemed false.

The advertisement of a drug or device representing it to have any effect in albuminuria, appendicitis,

arteriosclerosis, blood poison, bone disease, Bright's disease, cancer, carbuncles, cholecystitis, diabetes, diphtheria, dropsy, erysipelas, gallstones, heart and vascular diseases, high blood pressure, mastoiditis, measles, meningitis, mumps, nephritis, otitis media, paralysis, pneumonia, poliomyelitis (infantile paralysis), prostate gland disorders, pyelitis, scarlet fever, sexual impotence, sinus infection, smallpox, tuberculosis, tumors, typhoid, uremia, *venereal disease, shall also be deemed to be false; except that no advertisement not in violation of RCW [69.04.710](#) shall be deemed to be false under this section if it is disseminated only to members of the medical, veterinary, dental, pharmacal, and other legally recognized professions dealing with the healing arts, or appears only in the scientific periodicals of these professions, or is disseminated only for the purpose of public health education by persons not commercially interested, directly or indirectly, in the sale of such drugs or devices: PROVIDED, That whenever the director determines that an advance in medical science has made any type of self-medication safe as to any of the diseases named above, the director shall by regulation authorize the advertisement of drugs having curative or therapeutic effect for such disease, subject to such conditions and restrictions as the director may deem necessary in the interest of public health: PROVIDED FURTHER, That this section shall not be construed as indicating that self-medication for diseases other than those named herein is safe or efficacious.

[1945 c 257 § 90; Rem. Supp. 1945 § 6163-139.]

Notes:

***Reviser's note:** The term "venereal disease" was changed to "sexually transmitted disease" by 1988 c 206.

69.04.730

Enforcement, where vested — Regulations.

The authority to promulgate regulations for the efficient enforcement of this chapter is hereby vested in the director: PROVIDED, HOWEVER, That the director shall designate the Washington state board of pharmacy to carry out all the provisions of this chapter pertaining to drugs and cosmetics, with authority to promulgate regulations for the efficient enforcement thereof.

[1945 c 257 § 91 (vetoed); 1947 c 25 (passed notwithstanding veto); Rem. Supp. 1947 § 6163-139a.]

69.04.740

Regulations to conform with federal regulations.

The purpose of this chapter being to promote uniformity of state legislation with the federal act, the director is hereby authorized (1) to adopt, insofar as applicable, the regulations from time to time promulgated under the federal act; and (2) to make the regulations promulgated under this chapter conform, insofar as practicable, with those promulgated under the federal act.

[1945 c 257 § 92; Rem. Supp. 1945 § 6163-140.]

69.04.750

Hearings.

Hearings authorized or required by this chapter shall be conducted by the director or his duly authorized representative designated for the purpose.

[1945 c 257 § 93; Rem. Supp. 1945 § 6163-141.]

69.04.761

Hearing on proposed regulation — Procedure.

The director shall hold a public hearing upon a proposal to promulgate any new or amended regulation under this chapter. The procedure to be followed concerning such hearings shall comply in all respects with chapter [34.05](#) RCW (Administrative Procedure Act) as now enacted or hereafter amended.

[1963 c 198 § 13.]

69.04.770

Review on petition prior to effective date.

The director shall have jurisdiction to review and to affirm, modify, or set aside any order issued under *RCW [69.04.760](#), promulgating a new or amended regulation under this chapter, upon petition made at any time prior to the effective date of such regulation, by any person adversely affected by such order.

[1945 c 257 § 95; Rem. Supp. 1945 § 6163-143.]

Notes:

***Reviser's note:** RCW [69.04.760](#) was repealed by 1963 c 198 § 15. Later enactment, see RCW [69.04.761](#).

69.04.780

Investigations — Samples — Right of entry — Verified statements.

The director shall cause the investigation and examination of food, drugs, devices, and cosmetics subject to this chapter. The director shall have the right (1) to take a sample or specimen of any such article, for examination under this chapter, upon tendering the market price therefor to the person having such article in custody; and (2) to enter any place or establishment within this state, at reasonable times, for the purpose of taking a sample or specimen of any such article, for such examination.

The director and the director's deputies, assistants, and inspectors are authorized to do all acts and things necessary to carry out the provisions of this chapter, including the taking of verified statements. Such department personnel are empowered to administer oaths of verification on the statements.

[1991 c 162 § 6; 1945 c 257 § 96; Rem. Supp. 1945 § 6163-144.]

69.04.790

Owner may obtain part of sample.

Where a sample or specimen of any such article is taken for examination under this chapter the director shall, upon request, provide a part thereof for examination by any person named on the label of such article, or the owner thereof, or his attorney or agent; except that the director is authorized, by regulation, to make such reasonable exceptions from, and to impose such reasonable terms and conditions relating to, the operation of this section as he finds necessary for the proper administration of the provisions of this chapter.

[1945 c 257 § 97; Rem. Supp. 1945 § 6163-145.]

69.04.800

Access to records of other agencies.

For the purpose of enforcing the provisions of this chapter, pertinent records of any administrative agency of the state government shall be open to inspection by the director.

[1945 c 257 § 98; Rem. Supp. 1945 § 6163-146.]

69.04.810

Access to records of intrastate carriers.

For the purpose of enforcing the provisions of this chapter, carriers engaged in intrastate commerce, and persons receiving food, drugs, devices, or cosmetics in intrastate commerce or holding such articles so received, shall, upon the request of the director, permit the director at reasonable times, to have access to and to copy all records showing the movement in intrastate commerce of any food, drug, device, or cosmetic, or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof; and it shall be unlawful for any such carrier or person to fail to permit such access to and the copying of any such records so requested when such request is accompanied by a statement in writing specifying the nature or kind of food, drug, device, or cosmetic to which such request relates: PROVIDED, That evidence obtained under this section shall not be used in a criminal prosecution of the person from whom obtained: PROVIDED FURTHER, That except for violations of RCW [69.04.955](#), penalties levied under RCW [69.04.980](#), the requirements of RCW [69.04.950](#) through [69.04.980](#), and the requirements of this section, carriers shall not be subject to the other provisions of this chapter by reason of their receipt, carriage, holding, or delivery of food, drugs, devices, or cosmetics in the usual course of business as carriers.

[1990 c 202 § 9; 1945 c 257 § 99; Rem. Supp. 1945 § 6163-147.]

69.04.820

Right of entry to factories, warehouses, vehicles, etc.

For the purpose of enforcing the provisions of this chapter, the director is authorized (1) to enter, at reasonable times, any factory, warehouse, or establishment subject to this chapter, or to enter any vehicle being used to transport or hold food, drugs, devices, or cosmetics in intrastate commerce; and (2) to inspect, at reasonable times, such factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, labeling, and advertisements therein.

[1945 c 257 § 100; Rem. Supp. 1945 § 6163-148.]

69.04.830

Publication of reports of judgments, orders and decrees.

The director may cause to be published from time to time reports summarizing all judgments, decrees, and court orders which have been rendered under this chapter, including the nature of the charge and the disposition thereof.

[1945 c 257 § 101; Rem. Supp. 1945 § 6163-149.]

69.04.840

Dissemination of information.

The director may cause to be disseminated information regarding food, drugs, devices, or cosmetics in situations involving, in the opinion of the director, imminent danger to health or gross deception of, or fraud upon, the consumer. Nothing in this section shall be construed to prohibit the director from collecting, reporting, and illustrating the results of his examinations and investigations under this chapter.

[1945 c 257 § 102; Rem. Supp. 1945 § 6163-150.]

69.04.845

Severability — 1945 c 257.

If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.

[1945 c 257 § 103; Rem. Supp. 1945 § 6163-151.]

69.04.850

Construction — 1945 c 257.

This chapter and the regulations promulgated hereunder shall be so interpreted and construed as to effectuate its general purpose to secure uniformity with federal acts and regulations relating to adulterating, misbranding and false advertising of food, drugs, devices, and cosmetics.

[1945 c 257 § 104; Rem. Supp. 1945 § 6163-152.]

69.04.860

Effective date of chapter — 1945 c 257.

This chapter shall take effect ninety days after the date of its enactment, and all state laws or parts of laws in conflict with this chapter are then repealed: PROVIDED, That the provisions of section 91 shall become effective on the enactment of this chapter, and thereafter the director is hereby authorized to conduct hearings and to promulgate regulations which shall become effective on or after the effective date of this chapter as the director shall direct: PROVIDED FURTHER, That all other provisions of this chapter to the extent that they may relate to the enforcement of such sections, shall take effect on the date of the enactment of this chapter.

[1945 c 257 § 105; Rem. Supp. 1945 § 6163-153.]

Notes:

Reviser's note: 1945 c 257 § 91 referred to herein was vetoed by the governor but was subsequently reenacted as 1947 c 25 notwithstanding the veto. Section 91 is codified as RCW [69.04.730](#). For effective date of section 91 see preface 1947 session laws.

69.04.870

Short title.

This chapter may be cited as the Uniform Washington Food, Drug, and Cosmetic Act.

[1945 c 257 § 1; Rem. Supp. 1945 § 6163-50.]

69.04.880

Civil penalty.

Whenever the director finds that a person has committed a violation of a provision of this chapter, the director may impose upon and collect from the violator a civil penalty not exceeding one thousand dollars per violation per day. Each and every such violation shall be a separate and distinct offense. Imposition of the civil penalty shall be subject to a hearing in conformance with chapter [34.05](#) RCW.

69.04.900

Perishable packaged food — Pull date labeling — Definitions.

For the purpose of RCW [69.04.900](#) through [69.04.920](#):

(1) "Perishable packaged food goods" means and includes all foods and beverages, except alcoholic beverages, frozen foods, fresh meat, poultry and fish and a raw agricultural commodity as defined in this chapter, intended for human consumption which are canned, bottled, or packaged other than at the time and point of retail sale, which have a high risk of spoilage within a period of thirty days, and as determined by the director of the department of agriculture by rule and regulation to be perishable.

(2) "Pull date" means the latest date a packaged food product shall be offered for sale to the public.

(3) "Shelf life" means the length of time during which a packaged food product will retain its safe consumption quality if stored under proper temperature conditions.

(4) "Fish" as used in subsection (1) of this section shall mean any water breathing animals, including, but not limited to, shellfish such as lobster, clams, crab, or other mollusca which are prepared, processed, sold, or intended or offered for sale.

[1974 ex.s. c 57 § 1; 1973 1st ex.s. c 112 § 1.]

69.04.905

Perishable packaged food — Pull date labeling — Required.

All perishable packaged food goods with a projected shelf life of thirty days or less, which are offered for sale to the public after January 1, 1974 shall state on the package the pull date. The pull date must be stated in day, and month and be in a style and format that is readily decipherable by consumers: PROVIDED, That the director of the department of agriculture may exclude the monthly requirement on the pull date for perishable packaged food goods which have a shelf life of seven days or less. No perishable packaged food goods shall be offered for sale after the pull date, except as provided in RCW [69.04.910](#).

[1974 ex.s. c 57 § 2; 1973 1st ex.s. c 112 § 2.]

69.04.910**Perishable packaged food — Pull date labeling — Selling or trading goods beyond pull date — Repackaging to substitute for original date — Exception.**

No person shall sell, trade or barter any perishable packaged food goods beyond the pull date appearing thereon, nor shall any person rewrap or repackage any packaged perishable food goods with the intention of placing a pull date thereon which is different from the original: PROVIDED, HOWEVER, That those packaged perishable food goods whose pull dates have expired may be sold if they are still wholesome and are without danger to health, and are clearly identified as having passed the pull date.

[1973 1st ex.s. c 112 § 3.]

69.04.915**Perishable packaged food — Pull date labeling — Storage — Rules and regulations.**

The director of the department of agriculture shall by rule and regulation establish uniform standards for pull date labeling, and optimum storage conditions of perishable packaged food goods. In addition to his other duties the director, in consultation with the secretary of the department of health where appropriate, may promulgate such other rules and regulations as may be necessary to carry out the purposes of RCW [69.04.900](#) through [69.04.920](#).

[1989 1st ex.s. c 9 § 225; 1973 1st ex.s. c 112 § 4.]

Notes:

Effective date -- Severability -- 1989 1st ex.s. c 9: See RCW [43.70.910](#) and [43.70.920](#).

69.04.920**Perishable packaged food — Pull date labeling — Penalties.**

Any person convicted of a violation of RCW [69.04.905](#) or [69.04.910](#) shall be punishable by a fine not to exceed five hundred dollars.

[1973 1st ex.s. c 112 § 5.]

69.04.928**Seafood labeling requirements — Pamphlet — Direct retail endorsement.**

The department of agriculture must develop a pamphlet that generally describes the labeling requirements for seafood, as set forth in this chapter, and provide an adequate quantity of the pamphlets to the department of fish and wildlife to distribute with the issuance of a direct retail endorsement under RCW [77.65.510](#).

[2002 c 301 § 11.]

Notes:

Finding -- Effective date -- 2002 c 301: See notes following RCW [77.65.510](#).

69.04.930**Frozen fish and meat — Labeling requirements — Exceptions.**

It shall be unlawful for any person to sell at retail or display for sale at retail any food fish as defined in RCW [77.08.022](#) or shellfish as defined in RCW [77.08.010](#), any meat, or any meat food product which has been frozen at any time, without having the package or container in which the same is sold bear a label clearly discernible to a customer that such product has been frozen and whether or not the same has since been thawed. No such food fish or shellfish, meat or meat food product shall be sold unless in such a package or container bearing said label: PROVIDED, That this section shall not include any of the aforementioned food or food products that have been frozen prior to being smoked, cured, cooked or subjected to the heat of commercial sterilization.

[2003 c 39 § 28; 1999 c 291 § 32; 1988 c 254 § 8; 1983 1st ex.s. c 46 § 179; 1975 c 39 § 1.]

69.04.932**Salmon labeling — Definitions.**

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW [69.04.933](#) through [69.04.935](#).

(1) "Salmon" means all species of the genus *Oncorhynchus*, except those classified as game fish in Title [77](#) RCW, and includes:

SCIENTIFIC NAME	COMMON NAME
<i>Oncorhynchus tshawytscha</i>	Chinook salmon or king salmon
<i>Oncorhynchus kisutch</i>	Coho salmon or silver salmon
<i>Oncorhynchus keta</i>	Chum salmon
<i>Oncorhynchus gorbuscha</i>	Pink salmon
<i>Oncorhynchus nerka</i>	Sockeye salmon
<i>Salmo salar</i> (in other than its landlocked form)	Atlantic salmon

(2) "Commercially caught" means salmon harvested by commercial fishers.

[1993 c 282 § 2.]

Notes:

Finding -- 1993 c 282: "The legislature finds that salmon consumers in Washington benefit from knowing the species and origin of the salmon they purchase. The accurate identification of such species, as well as knowledge of the country or state of origin and of whether they were caught commercially or were farm-raised, is important to consumers." [1993 c 282 § 1.]

69.04.933 Salmon labeling — Identification of species — Exceptions — Penalty.

With the exception of a commercial fisher engaged in sales of fish to a fish buyer, no person may sell at wholesale or retail any fresh or frozen salmon food fish or

cultured aquatic salmon without identifying the species of salmon by its common name to the buyer at the point of sale such that the buyer can make an informed decision in purchasing. A person knowingly violating this section is guilty of misbranding under this chapter. A person who receives misleading or erroneous information about the species of salmon and subsequently inaccurately identifies salmon shall not be guilty of misbranding. This section shall not apply to salmon that is minced, pulverized, coated with batter, or breaded.

[1993 c 282 § 3.]

Notes:

Finding -- 1993 c 282: See note following RCW [69.04.932](#).

69.04.934 Salmon labeling — Identification as farm-raised or commercially caught — Exceptions — Penalty.

With the exception of a commercial fisher engaged in sales of fish to a fish buyer, no person may sell at wholesale or retail any fresh or frozen:

(1) Private sector cultured aquatic salmon without identifying the product as farm-raised salmon; or

(2) Commercially caught salmon designated as food fish under Title [77](#) RCW without identifying the product as commercially caught salmon.

Identification of the products under subsections (1) and (2) of this section shall be made to the buyer at the point of sale such that the buyer can make an informed decision in purchasing.

A person knowingly violating this section is guilty of misbranding under this chapter. A person who receives misleading or erroneous information about whether the salmon is farm-raised or commercially caught, and subsequently inaccurately identifies salmon shall not be guilty of misbranding. This section shall not apply to salmon that is minced, pulverized, coated with batter, or breaded.

[2003 c 39 § 29; 1993 c 282 § 4.]

Notes:

Finding -- 1993 c 282: See note following RCW [69.04.932](#).

69.04.935

Salmon labeling — Rules for identification and enforcement.

To promote honesty and fair dealing for consumers, the director, in consultation with the director of the department of fish and wildlife, shall adopt rules:

(1) Fixing and establishing a reasonable definition and standard of identity for salmon for purposes of identifying and selling salmon;

(2) Enforcing RCW [69.04.933](#) and [69.04.934](#).

[1994 c 264 § 39; 1993 c 282 § 5.]

Notes:

Finding -- 1993 c 282: See note following RCW [69.04.932](#).

69.04.940

Imported lamb products — Labeling requirements.

All retail sales of fresh or frozen lamb products which are imported from another country shall be labelled with the country of origin. For the purposes of this section "imported lamb products" shall include but not be limited to, live lambs imported from another country but slaughtered in the United States.

[1987 c 393 § 25.]

69.04.950

Transport of bulk foods — Definitions.

The definitions in this section apply throughout RCW [69.04.950](#) through [69.04.980](#):

(1) "Food" means: (a) Any article used for food or drink for humans or used as a component of such an article; or (b) a food grade substance.

(2) "Food grade substance" means a substance which satisfies the requirements of the federal food, drug, and cosmetic act, meat inspection act, and poultry products

act and rules promulgated thereunder as materials approved by the federal food and drug administration, United States department of agriculture, or United States environmental protection agency for use: (a) As an additive in food or drink for human consumption, (b) in sanitizing food or drink for human consumption, (c) in processing food or drink for human consumption, or (d) in maintaining equipment with food contact surfaces during which maintenance the substance is expected to come in contact with food or drink for human consumption.

(3) "In bulk form" means a food or substance which is not packaged or contained by anything other than the cargo carrying portion of the vehicle or vessel.

(4) "Vehicle or vessel" means a commercial vehicle or commercial vessel which has a gross weight of more than ten thousand pounds, is used to transport property, and is a motor vehicle, motor truck, trailer, railroad car, or vessel.

[1990 c 202 § 1.]

Notes:

Advisory committee -- Report -- 1990 c 202: "The director of agriculture and the secretary of health shall examine, in consultation with an industry advisory committee, the potential hazards that may be posed to the public health by the transportation of food in other than bulk form in intrastate commerce. The director and secretary shall report the findings to the legislature by January 1, 1992, concerning the extent of the potential hazards, the frequency of mixed shipments of packaged food and nonfood items, the manner in which mixed shipments of packaged food and nonfood items are transported, and the incidents of food contamination in Washington state within the past five years. The findings shall include recommendations, if any, for regulating the transportation of food in other than bulk form.

The director and the secretary shall establish an industry advisory committee to provide advice regarding the examination required by this section. The director and the secretary shall jointly appoint not less than nine persons to the committee. These persons shall be representatives from the manufacturing, processing, wholesaling,

distributing, and retailing sectors of the food industry." [1990 c 202 § 8.]

69.04.955

Transport of bulk foods — Prohibitions — Exemption.

(1) Except as provided in RCW [69.04.965](#) and [69.04.975](#), no person may transport in intrastate commerce food in bulk form in the cargo carrying portion of a vehicle or vessel that has been used for transporting in bulk form a cargo other than food.

(2) No person may transport in intrastate commerce food in bulk form in the cargo carrying portion of a vehicle or vessel unless the vehicle or vessel is marked "Food or Food Compatible Only" in conformance with rules adopted under RCW [69.04.960](#).

(3) No person may transport in intrastate commerce a substance in bulk form other than food or a substance on a list adopted under RCW [69.04.960](#) in the cargo carrying portion of a vehicle or vessel marked "Food or Food Compatible Only."

(4) This section does not apply to the transportation of a raw agricultural commodity from the point of its production to the facility at which the commodity is first processed or packaged.

[1990 c 202 § 2.]

69.04.960

Transport of bulk foods — Compatible substances — Cleaning vehicle or vessel — Vehicle or vessel marking.

(1) The director of agriculture and the secretary of health shall jointly adopt by rule:

(a) A list of food compatible substances other than food that may be transported in bulk form as cargo in a vehicle or vessel that is also used, on separate occasions, to transport food in bulk form as cargo. The list shall contain those substances that the director and the secretary determine will not pose a health hazard if food in bulk form were transported in the vehicle or vessel after it transported the substance. In making this determination, the director and the secretary shall assume that some residual portion of the substance will remain in the cargo carrying portion of the vehicle or vessel when the food is transported;

(b) The procedures to be used to clean the vehicle or vessel after transporting the substance and prior to transporting the food;

(c) The form of the certificates to be used under RCW [69.04.965](#); and

(d) Requirements for the "Food or Food Compatible Only" marking which must be borne by a vehicle or vessel under RCW [69.04.955](#) or [69.04.965](#).

(2) In developing and adopting rules under this section and RCW [69.04.970](#), the director and the secretary shall consult with the secretary of transportation, the chief of the state patrol, the chair of the utilities and transportation commission, and representatives of the vehicle and vessel transportation industries, food processors, and agricultural commodity organizations.

[1990 c 202 § 3.]

69.04.965

Transport of bulk foods — Transports not constituting violations.

Transporting food as cargo in bulk form in intrastate commerce in a vehicle or vessel that has previously been used to transport in bulk form a cargo other than food does not constitute a violation of RCW [69.04.955](#) if:

(1) The cargo is a food compatible substance contained on the list adopted by the director and secretary under RCW [69.04.960](#);

(2) The vehicle or vessel has been cleaned as required by the rules adopted under RCW [69.04.960](#);

(3) The vehicle or vessel is marked "Food or Food Compatible" in conformance with rules adopted under RCW [69.04.960](#); and

(4) A certificate accompanies the vehicle or vessel when the food is transported by other than railroad car which attests, under penalty of perjury, to the fact that the vehicle or vessel has been cleaned as required by those rules and is dated and signed by the party responsible for that cleaning. Such certificates shall be maintained by the owner of the vehicle or vessel for not less than three years and shall be available for inspection concerning compliance with RCW [69.04.950](#) through [69.04.980](#). The director of agriculture and the secretary of health shall jointly adopt rules requiring such certificates for the transportation of food under this section by railroad car and requiring such certificates to be available for inspection concerning compliance with RCW [69.04.950](#) through [69.04.980](#). Forms for the certificates shall be provided by the department of agriculture.

[1990 c 202 § 4.]

69.04.970

Transport of bulk foods — Substances rendering vehicle or vessel permanently unsuitable for bulk food transport — Procedures to rehabilitate vehicles and vessels.

The director of agriculture and the secretary of health shall jointly adopt by rule:

(1) A list of substances which, if transported in bulk form in the cargo carrying portion of a vehicle or vessel, render the vehicle or vessel permanently unsuitable for use in transporting food in bulk form because the prospect that any residue might be present in the vehicle or vessel when it transports food poses a hazard to the public health; and

(2) Procedures to be used to rehabilitate a vehicle or vessel that has been used to transport a substance other than a substance contained on a list adopted under RCW [69.04.960](#) or under subsection (1) of this section. The procedures shall ensure that transporting food in the cargo carrying portion of the vehicle or vessel after its rehabilitation will not pose a health hazard.

[1990 c 202 § 5.]

69.04.975

Transport of bulk foods — Rehabilitation of vehicles and vessels — Inspection — Certification — Marking — Costs.

A vehicle or vessel that has been used to transport a substance other than food or a substance contained on the lists adopted by the director and secretary under RCW [69.04.960](#) and [69.04.970](#), may be rehabilitated and used to transport food only if:

(1) The vehicle or vessel is rehabilitated in accordance with the procedures established by the director and secretary in RCW [69.04.970](#);

(2) The vehicle or vessel is inspected by the department of agriculture, and the department determines that transporting food in the cargo carrying portion of the vehicle or vessel will not pose a health hazard;

(3) A certificate accompanies the vehicle or vessel certifying that the vehicle or vessel has been rehabilitated and inspected and is authorized to transport food, and is dated and signed by the director of agriculture, or an authorized agent of the director. Such certificates shall be

maintained for the life of the vehicle by the owner of the vehicle or vessel, and shall be available for inspection concerning compliance with RCW [69.04.950](#) through [69.04.980](#). Forms for the certificates shall be provided by the department of agriculture; and

(4) The vehicle or vessel is marked as required by RCW [69.04.955](#) or is marked and satisfies the requirements of RCW [69.04.965](#) which are not inconsistent with the rehabilitation authorized by this section.

No vehicle or vessel that has transported in bulk form a substance contained on the list adopted under RCW [69.04.970](#) qualifies for rehabilitation.

The cost of rehabilitation shall be borne by the vehicle or vessel owner. The director shall determine a reasonable fee to be imposed on the vehicle or vessel owner based on inspection, laboratory, and administrative costs incurred by the department in rehabilitating the vehicle or vessel.

[1990 c 202 § 6.]

69.04.980

Transport of bulk foods — Penalties.

A person who knowingly transports a cargo in violation of RCW [69.04.955](#) or who knowingly causes a cargo to be transported in violation of RCW [69.04.955](#) is subject to a civil penalty, as determined by the director of agriculture, for each such violation as follows:

(1) For a person's first violation or first violation in a period of five years, not more than five thousand dollars;

(2) For a person's second or subsequent violation within five years of a previous violation, not more than ten thousand dollars.

The director shall impose the penalty by an order which is subject to the provisions of chapter [34.05](#) RCW.

The director shall, wherever practical, secure the assistance of other public agencies, including but not limited to the department of health, the utilities and transportation commission, and the state patrol, in identifying and investigating potential violations of RCW [69.04.955](#).

[1990 c 202 § 7.]